

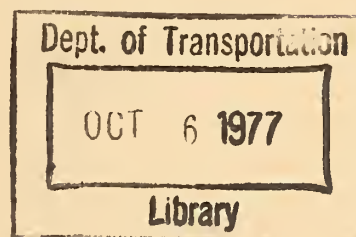
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UMTA/TSC Project Evaluation Series

Pre-Demonstration Activities of the Westport Integrated Transit System

Interim Report
July 1977



Service and Methods Demonstration Program



U.S. DEPARTMENT OF TRANSPORTATION
Urban Mass Transportation Administration
and Transportation Systems Center

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16. Abstract <p>In August, 1976 the Westport Transit District (WTD) was awarded a demonstration grant by the Urban Mass Transportation Administration (UMTA) to examine the feasibility of combining shared-ride taxi service and other paratransit services with conventional bus services in Westport, Connecticut. The demonstration services were initiated in April, 1977.</p> <p>This report focuses on documenting and assessing the brokerage role performed by the WTD in implementing shared-ride services. The contents include a discussion of the institutional and operational elements involved in contracting with local taxi operators to provide shared-ride service. In addition, arrangements for system maintenance, marketing, and public information dissemination are described. Implications from the Westport pre-demonstration experience are potentially of interest and applicability to other locales.</p>			
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PREFACE

At the request of the U.S. Department of Transportation (DOT), Transportation Systems Center (TSC) at Cambridge, Massachusetts, CACI has developed information describing in detail the Westport, Connecticut Demonstration Project which involves integrated transit operations and paratransit services. In particular, this report describes the services to be provided and the planning and implementation process. Implications for other communities contemplating the introduction of similar services are set forth.

Much of the material contained herein was derived from interviews and communications with Richard Bradley, Executive Director of the Westport Transit District (WTD), and Richard Clair, the Demonstration Project Director for the WTD. In addition, comments and suggestions from Mark Abkowitz of TSC and Paul Fish of the Urban Mass Transportation Administration have been incorporated in this document.

METRIC CONVERSION FACTORS

Approximate Conversions to Metric Measures				Approximate Conversions from Metric Measures			
Symbol	What You Know	Multiply by	To Find	Symbol	When You Know	Multiply by	To Find
LENGTH				LENGTH			
in	inches	2.5	centimeters	mm	millimeters	0.04	inches
ft	feet	30	centimeters	cm	centimeters	0.4	inches
yd	yards	0.9	meters	m	meters	3.3	feet
mi	miles	1.6	kilometers	km	kilometers	1.1	yards
						0.6	miles
AREA				AREA			
in ²	square inches	6.5	square centimeters	cm ²	square centimeters	0.16	square inches
ft ²	square feet	0.09	square meters	m ²	square meters	1.2	square yards
yd ²	square yards	0.8	square meters	km ²	square kilometers	0.4	square miles
mi ²	square miles	2.6	square kilometers	ha	hectares (10,000 m ²)	2.5	acres
	acres	0.4	hectares				
MASS (weight)				MASS (weight)			
oz	ounces	28	grams	g	grams	0.035	ounces
lb	pounds	0.45	kilograms	kg	kilograms	2.2	pounds
	short tons (2000 lb)	0.9	tonnes	t	tonnes (1000 kg)	1.1	short tons
VOLUME				VOLUME			
tsp	teaspoons	5	milliliters	ml	milliliters	0.03	fluid ounces
Tbsp	tablespoons	15	milliliters	l	liters	2.1	pints
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c	cups	0.24	liters	l	liters	0.26	gallons
pt	pints	0.47	liters	m ³	cubic meters	35	cubic feet
qt	quarts	0.95	liters	m ³	cubic meters	1.3	cubic yards
gal	gallons	3.8	liters				
ft ³	cubic feet	0.03	cubic meters				
yd ³	cubic yards	0.76	cubic meters				
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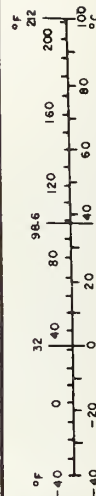
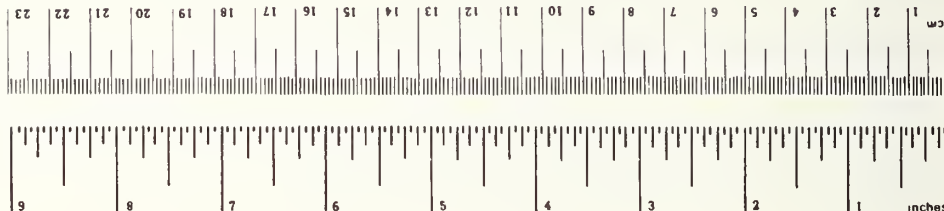


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1. INTRODUCTION

1.1 PURPOSE OF REPORT

This report describes the Westport, Connecticut Service and Methods Demonstration Project involving integrated transit operations and paratransit services, and documents and assesses the implementation process associated with this demonstration.

The Westport demonstration is sponsored by the Urban Mass Transportation Administration (UMTA) under the Service and Methods Demonstration (SMD) Program. The SMD Program is intended to foster the development, demonstration, and evaluation of new techniques and methods for using the current generation of transit equipment in providing a significantly improved quality of public transportation. This particular report has been accomplished through the Transportation Systems Center (TSC), which has programmatic responsibility for all aspects of evaluation associated with the SMD Program.

The Westport Demonstration Project addresses three objectives of the SMD Program:

- 1) Increased transit coverage.
- 2) Increased transit vehicle productivity.
- 3) Improved transit service for the transit dependent.

In addition, the Westport demonstration emphasizes local taxi operator involvement in providing a shared-ride taxi service under the central management control of a public transit district. This paratransit service is integrated with the conventional fixed-route bus transit services provided by the Westport Transit District (WTD). Inherent in this project is the

concept of a public transit authority acting as a transportation broker, contracting for services (both public and private), serving as an agent to balance transportation supply and demand in a productive manner, and overseeing day-to-day operations.

The most significant aspects of this demonstration have been the public sector transportation brokerage and the harnessing of private local taxi service. This partnership has been attempting to meet local public transportation needs with local private transportation capabilities. This demonstration looks upon local taxi service as a paratransit resource in the context of shared-ride operations. Since local taxi service is common in almost every community, there are considerable implications for other transit authorities, transit districts, and taxi companies throughout the country.

The significance of the issues in the Westport demonstration has led to an examination of the pre-demonstration process. The Westport demonstration has provided an insight into the nature and extent of the efforts required to implement integrated transit and paratransit (shared-ride taxi) operations under the control of a public transit entity. Considerations of importance are: legal and regulatory issues, financial requirements, personnel acquisition and management, bidding processes, vehicle and equipment procurement, management contract negotiations, fare structure, maintenance arrangements, and marketing.

This report, therefore, is both a documentation of the Westport experience, and an assessment of what lessons might be learned by other transit entities contemplating the implementation of similar services and operations.

1.2 REPORT OVERVIEW

Chapter 2 provides a brief background on the demonstration in terms of the Westport setting and existing transit services.

Chapter 3 describes the demonstration project and the services to be provided.

Chapter 4 describes the major elements in the implementation effort.

Chapter 5 describes the actual implementation process in Westport, from the awarding of the demonstration grant on August 4, 1976 to the beginning of services on April 16, 1977.

Chapter 6 assesses the actual implementation process and draws some conclusions which may be transferable to other communities contemplating implementation efforts.

2. DESCRIPTION OF DEMONSTRATION SITE AND EXISTING TRANSIT

2.1 WESTPORT SETTING

This demonstration takes place in the suburban community of Westport, Connecticut. Westport encompasses an area of 22.4 square miles in southwestern Connecticut, with approximately eight miles of shoreline on Long Island Sound. Westport is part of Fairfield County and is approximately a one-hour drive from New York City. Figure 1 depicts the location of Westport in the region.

The 1975 population of 28,700 results in a low density of less than 1,300 people per square mile. The population had a median age of 32.5 and a school population of more than 7,000 in 1976; eight percent of the population are 65 or older. The residents are affluent, with an average annual household income in excess of \$26,000 per year. Household automobile ownership is also high, with an average of 2.2 vehicles per household. More than 50 percent of the workers who reside in Westport are employed in managerial/professional type jobs in the New York City area.

The affluence is also reflected in the residential development, with most house lots ranging from one-half to two acres in size. Figure 2 depicts the local Westport setting. The town is traversed by two major regional travel corridors: Merrit Parkway on the north, and the Connecticut Turnpike on the south near the coast. Between these two corridors lies the town's central spine along Route 1 (Boston Post Road). The town has a clearly discernable central business district (CBD) located near the point where Route 1 crosses the Saugatuck River. This area contains an assortment of shops, restaurants, offices, and municipal buildings as well as an open historical area known as Jesup Green.

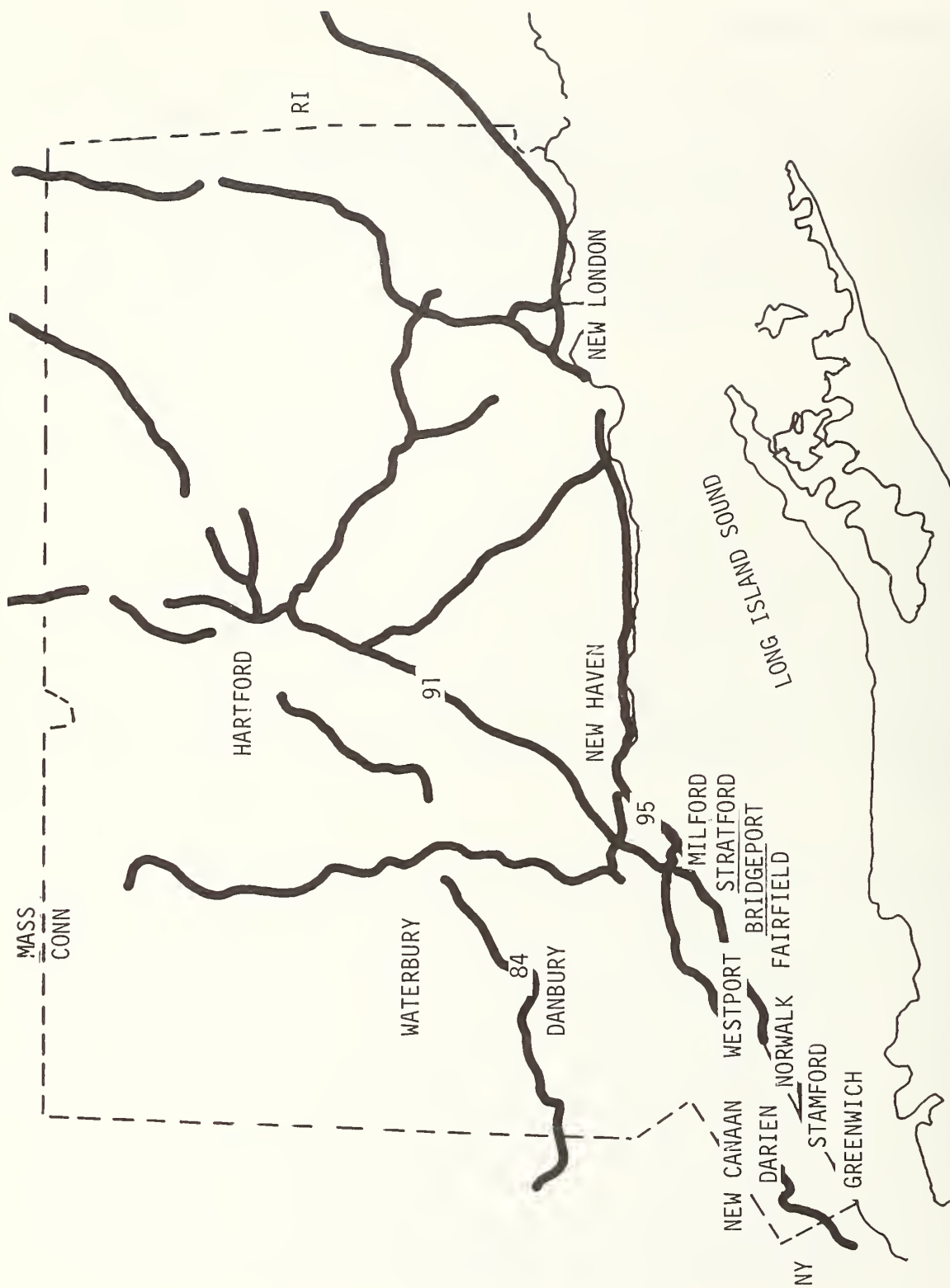


FIGURE 1. WESTPORT'S LOCATION IN THE REGION

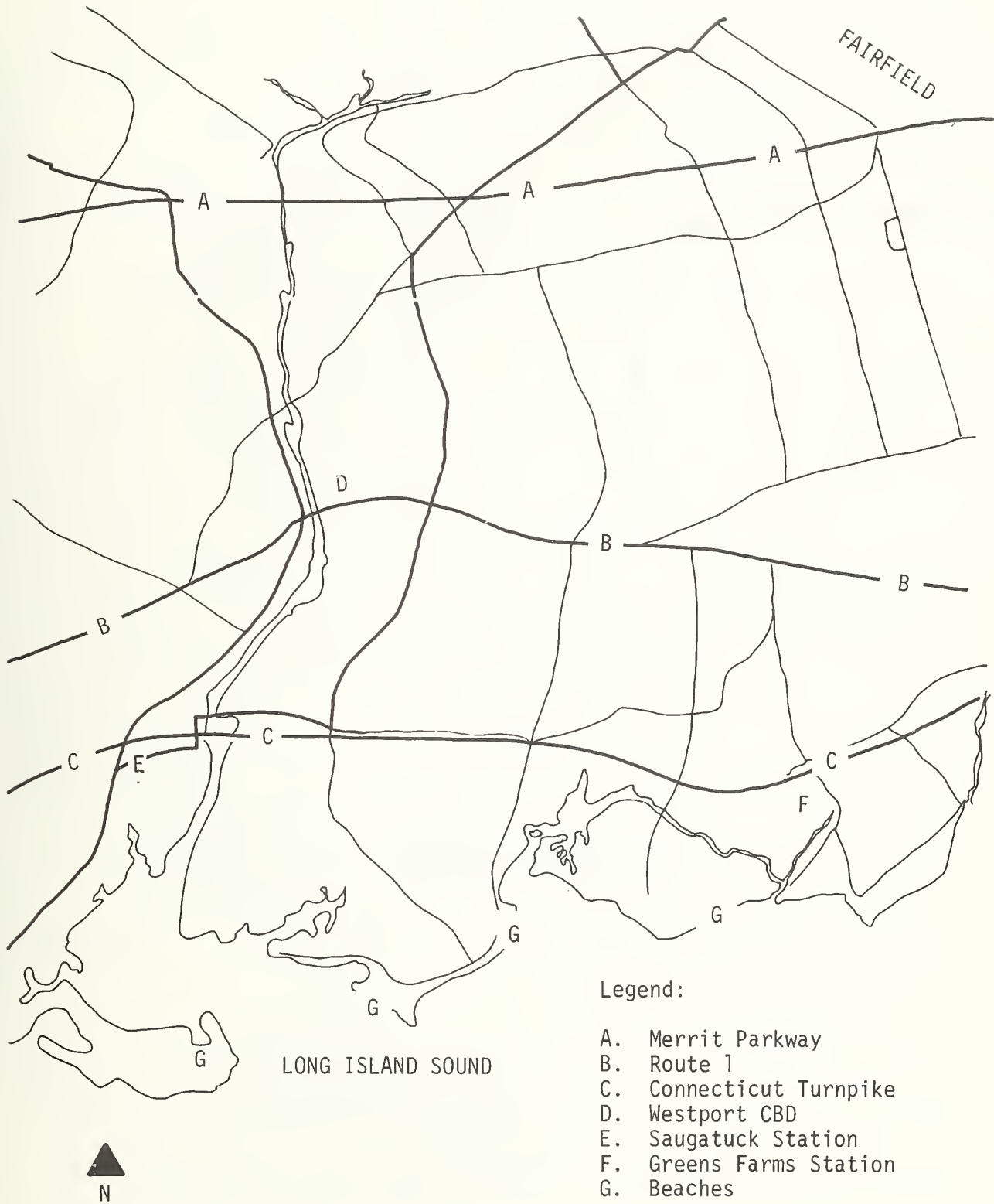


FIGURE 2. THE WESTPORT SETTING

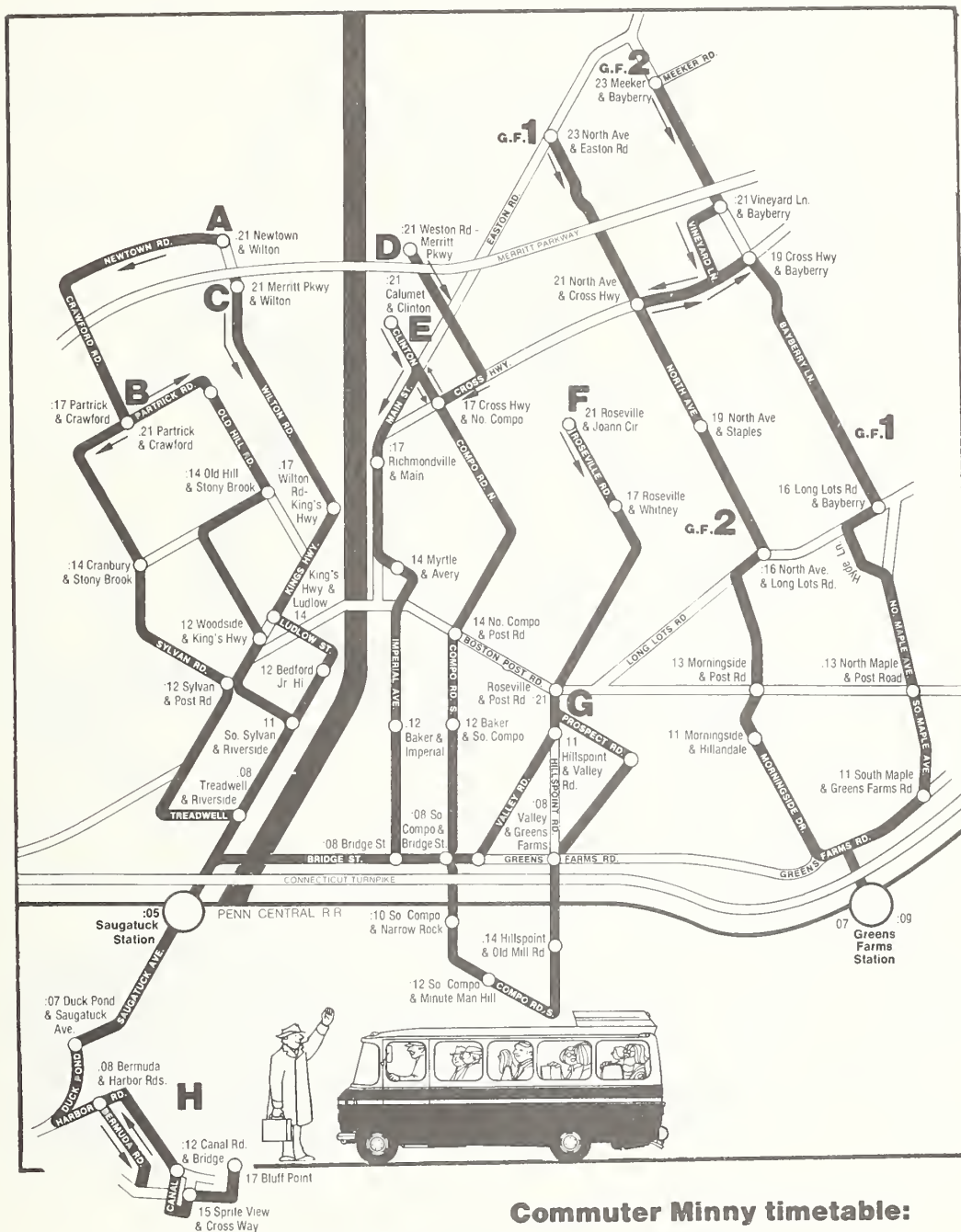
Westport also contains two commuter rail stations at Saugatuck and Greens Farms which are serviced by Conrail commuter trains to and from New York City. There are approximately 2,400 daily commuters (1,800 from Westport) who patronize this service at the Westport stations.

The beaches on the southern coast facing Long Island Sound provide a major seasonal attraction to the youth of Westport.

2.2 WESTPORT TRANSIT DISTRICT OPERATIONS AND DEVELOPMENT

In 1968 the Town of Westport established the Westport Transit District in accordance with appropriate state legislation. The period from 1968 to 1974 witnessed an evolving story encompassing several bus transit feasibility studies, and local government decisions concerning the local share of an expected operating deficit. Finally, after securing a capital grant from the federal government and obtaining the necessary local support, the WTD initiated a minibus fixed-route service in August 1974 on seven commuter routes (presently 10, reference Figure 3) to the railroad stations, and on seven regular daytime loop routes (reference Figure 4), with the fleet of vehicles departing Jesup Green near the CBD every 35 minutes. The minibus vehicles used in the service were named "The Minny," thus the service itself is sometimes referred to as "The Minny Service" or "The Minnybus." Information describing the differences between the commuter service and the daytime service is provided in Table 1.

The first two and one-half years of service have been highly successful in terms of ridership and public acceptance. Survey results have revealed that the daytime ridership is highly transit-dependent, with 74 percent of the riders between the ages of twelve and 19, and only 33 percent with drivers'



Commuter Minny timetable:

Saugatuck Trains

7:09 AM
7:32
*5:02 PM
*5:20
*6:07

Greens Farms Trains

7:04 AM
7:27
*4:40 PM
*5:20
*6:07

* Leaves Grand Central

FIGURE 3. MINNYBUS COMMUTER ROUTES



Here's where and when to find the Minny

The numbers indicated at each point represent minutes from Jesup Green. Buses on the Daytime Route depart from the Minny Terminal at 7:45 8:20 8:55 9:30 10:05 10:40 11:15 11:50 12:25 1:00 1:35 2:10 2:45 3:20 3:55 4:30 5:05

FIGURE 4. MINNYBUS DAYTIME ROUTES

TABLE 1. MINNYBUS SERVICE INFORMATION

Service Characteristic	Commuter Service	Daytime Service
Number of routes ¹	10 (A-H, GF1, GF2)	7 (1-7)
Types of routes	Linear & partial loops	Full loops & partial loops
Day coverage	Weekdays	Weekdays & Saturday
Time coverage	6:30AM-7:30AM 5:45PM-7:30PM	7:45AM-5:35PM
Area coverage	See Figure 3	See Figure 4
Route terminus	Rail Stations	Jesup Green central transfer terminal
Headways	22 minutes	35 minutes
Number of daily fleet runs	2 morning 3 evening	17
Average route length	4.06 miles	8.43 miles
Number of stops	Flag-down procedure	Flag-down procedure
Deadheading	Yes: garage to 1st pickup; RR to 2nd pick up; RR to Jesup Green	Minimal: CBD garage to Jesup Green
Fare	\$0.50 drop fare; annual pass	\$0.50 drop fare; annual pass
Transfers	Not applicable	Yes (free transfers)
Vehicle type used ²	Mercedes-Benz D309	Mercedes-Benz D309
Vehicle capacity ²	16 seated; 9 standing	16 seated; 6 standing
Vehicle equipment	Radios, stop buzzer	Radios, stop buzzer
Drivers	Non-union no uniforms	Non-union, no uniforms

¹The Minny also operates special shuttle bus runs to service seasonal high-demand areas (Staples High School, Compo beaches) and Sturges Highway, which is not directly served by regular route service.

²One 33-passenger bus called Maxybus, a regular-sized vehicle made by Twin Coach Co., is used on the early morning daytime service for a shuttle run to Staples High School. The Maxybus remains out of service from approximately 8:30 AM to 2:30 PM. At school dismissal time, the vehicle returns to Route 5 to serve the high school passengers. Following daytime service, this bus switches to the evening GF1 commuter route.

licenses. In contrast, the commuter operation serves a more middle-aged market, with 96 percent of riders possessing drivers' licenses.

This concern for meeting the needs of various groups is the major purpose of the WTD's Minnybus operation. This is reflected in the official statement of goals by the Transit Directors:

The Westport Transit District's Minnybus operation was designed to help meet several important goals for the community. First of all, it was intended to meet the human needs of the elderly, of the young, of the suburban housewife, and of the commuter. Secondly, it was proposed to meet the financial needs of both municipal government as well as the individual car owner by reducing the need for automobile use in the community, which would save on cost to develop parking spaces, widen roads, as well as the personal cost of car ownership. Thirdly, it was designed to have an environmental impact by reducing congestion and pollution, achieving better land use, and utilizing energy resources more efficiently.

The pursuit of these goals led the Transit District to an interest in local taxi service. It was viewed as a potential paratransit resource in meeting some of the unsatisfied needs in the community. The WTD philosophy was that taxis provided a valuable service which should be maintained and integrated as part of the total transportation services available to the community.¹ The WTD viewed this integration in the context of its potential role as a broker of transportation services for the community.

¹Use of local taxis was opted over acquisition of larger vehicles, because of mobility and financial concerns.

With this guiding philosophy, the WTD submitted an application in April 1975 to the Urban Mass Transportation Administration for \$25,000 to develop a plan for integrating conventional transit with paratransit services. In its application, the WTD stated that:

It is the belief of the Westport Transit District that a unified system of service, including premium-ride taxi, shared-ride taxi, subscription service, demand-activated bus service, integrating the equipment and services of both the taxi and bus operations, coordinated with both the Penn Central commuter service and the intercity coach service could have a significant impact in meeting the needs in our community and substantially increasing ridership. Further, it believes that the successful integration of these services would provide a useful model for other parts of the country.

The study was approved in July 1975 and completed by a private consultant in January 1976. This study revealed the following markets in need of improved service in Westport:

- 1) Expanded service hours for normal daytime operations.
- 2) Expanded service for employees in downtown Westport.
- 3) Expanded service for commuters at the rail stations.
- 4) Expanded services for specialized markets such as the elderly and handicapped, and special groups such as social service agencies who may wish to subscribe for transportation service.

- 5) Improved capabilities and efficiencies for markets using taxi services.

In February of 1976 the WTD submitted a request to UMTA for a shared-ride taxi demonstration aimed at fulfilling these needs. On August 4, 1976 the WTD was awarded a \$610,000 grant under the SMD Program, to demonstrate the feasibility of combining shared-ride taxi and other paratransit services with conventional bus services in Westport.

3. DEMONSTRATION PROJECT

3.1 DEMONSTRATION CONCEPT

The Westport demonstration focuses on service integration and public transportation agency brokerage. Conventional transit services (fixed-route bus) and innovative paratransit services (shared-ride taxi) are to be integrated in terms of management, control, and operations, to serve a broad range of market segments more effectively and efficiently than a fragmented approach between the private and public sectors. The Westport Transit District is the umbrella agency for developing and coordinating this approach. The WTD will perform the brokerage function in terms of operations, support activities, and information dissemination.

Essentially the demonstration calls for the Westport Transit District to harness the capabilities of taxi service into its own management structure. Equipped with this type of service capability, the WTD can be more responsive to public transportation needs as well as more efficient and productive in its own operations.

3.2 BASIC DEMONSTRATION SERVICES

Services to be integrated with the existing Minny services are: shared-ride taxis, supplementary fixed-route service by use of taxis, subscription (advance-payment, reserved seating) service for the shared-ride taxis, and "special-market" services for the elderly and handicapped.

3.2.1 Shared-Ride Taxi (Maxytaxy)

Traditional taxi service operates primarily on a premium-ride basis, with a single passenger paying a certain fare for a

specified trip. The Westport demonstration will employ eleven¹ 12-passenger vans to provide a shared-ride taxi service which groups passengers but still provides door-to-door service. Approximately four of the eleven vehicles purchased will be in the shared-ride taxi mode during any given period. The service will be coordinated through a single dispatch center, which also controls the fixed-route Minnybus operations. The shared-ride taxi service operates similarly to a regular taxi service, wherein a passenger places a call to the dispatch center and states his or her desired trip information. The dispatch center is equipped with an automatic voice-activated telephone answering device which can record two requests while simultaneously playing back one request to the dispatcher.

The fare structure will be considerably lower than that associated with premium-ride taxi operations. One important goal of the demonstration project is to provide the shared-ride taxi service on a breakeven, non-subsidized basis. It is expected that the average fare will be approximately \$2.00.² Individuals holding annual passes (currently in widespread use in the Minnybus service) will be eligible for discount fares at certain times of the day and at certain locations. Railroad commuter passholders, for example, will be allowed to use the shared-ride taxi service for half fare after 7:30 PM. Similarly, all passholders will be eligible for a half fare on Friday and Saturday evenings.

¹Nine of the vehicles were purchased with demonstration funds; the others were purchased with capital grant funds.

²Presently the average fare for Westport single-passenger taxi trips is \$2.40.

3.2.2 Supplementary Fixed-Route Service by Use of Taxis

The demonstration also provides for using the taxis for additional fixed-route services on both the commuter and regular daytime services. Presently the transition from commuter service to daytime service at 7:45 AM leaves the later morning Conrail trains uncovered in terms of bus service. The use of the taxis will enable the WTD to provide fixed-route commuter service to the trains at 7:51 AM (express to New York) and 8:28 AM on routes A, C, D, E, F, and G (all serving Saugatuck Station).

The regular daytime service presently ends after the fleet run at 5:05 PM. This precludes many CBD employees from using the Minnybus service for the trip home. The use of the taxis will provide two additional hours of evening service comprising three individual fleet runs from Jesup Green at 5:15, 5:50 and 6:25 PM.

In total, the WTD will be providing 5,700 additional annual hours (temporal coverage) of fixed-route services (a 20 percent increase in annual vehicle-hours).

3.2.3 "Special-Market" Services

The taxis will also be used to provide an advance-request, demand-responsive service for the elderly and handicapped.¹ Two of the taxis are equipped with electrohydraulic lifts to provide a special means of entry into the vehicle. Qualified

¹ Approximately eight percent of Westport's population are 65 or older. There are 750 handicapped individuals, of whom 40 require wheelchairs.

individuals¹ can use this service provided the request is made at least 24 hours before the desired pickup time; requests, however, will not be taken in advance of one week before the desired trip. The fare for this type of service is \$0.25.

The elderly are also eligible for a 25 percent discount off the regular fare.

Social service agencies in the town are also eligible for low-cost specialized service from the WTD. When five or more individuals must be transported to a scheduled program, the service can be provided at the cost per unit of time that the particular vehicle is in service, rather than a fare per passenger. Other fare discounts for these groups are also available.

3.2.4 Subscription Service

The Transit District will also offer subscription shared-ride taxi service to individuals or groups desiring this type of service. This involves advance payment for a reserved seat on a vehicle which is provided on a recurring basis for a specified trip.

¹To qualify for this special service, an individual needs to register with the Transit District with a letter from their doctor, nurse, or social service agency stating that the person has a limitation (as described and categorized by the WTD) which prevents them from using the Minnybus system. The four categories of disability certifiable are age, orthopedic difficulty, eyesight, and mental retardation.

The fixed-route Minny Service will not provide subscription services as such. However, the employees from the CBD will be given preferential seating on the 5:15 PM supplementary fleet of taxis departing from Jesup Green, providing they show a special pass card issued by the Transit District through the passengers' employers.

3.3 SUPPLEMENTARY SERVICES

In addition to the direct provision of transportation described above as the basic demonstration services, supplementary activities associated with transportation supply will be performed by the WTD as part of the demonstration.

3.3.1 Transportation Information Center

The WTD will serve as an information broker for the general public of Westport. An Information Center will be located in the downtown area, and will provide multiple kinds of information about all aspects of the transportation services in Westport, including all transit and paratransit services.

3.3.2 Car Pool and Van Pool Matching Program

Car pooling will be promoted as part of the overall public information program. Technical assistance will be provided to downtown employees to organize car pool programs. Additional assistance for the implementation of van pool programs will be provided to major employee centers in the community.

3.3.3 Goods Movement

The WTD will be providing a small-goods delivery service in the context of the shared-ride taxi operations. A Maxytaxy will pick up and deliver any small package within the town's boundaries.

The individual requesting the service is required to call the merchant or office involved to arrange payment for the goods. The Maxytaxy will pick up anything that can be easily carried by one person.

The cost for this service is the regular Maxytaxy fare (to be discussed later) plus a \$0.50 surcharge if the driver must leave the vehicle to make the pick-up.

3.3.4 Shared-Ride Auto

The possibility of implementing shared-ride auto services will also be studied. The purpose of this experiment is to see what impact there may be in utilizing occasional providers of transit services. These occasional providers would be private individuals who would be adequately licensed and insured for the provision of shared-ride services. The integration of this aspect of the project is contingent upon a successful study of the legal and institutional implications of such services.

3.4 COMPREHENSIVE PASS PROGRAM AND FARE STRUCTURES

The Westport demonstration will continue and expand upon the annual pass program which has been used for the Minnybus service for the past three years. Table 2 presents the annual pass prices for the Minnybus from 1974 to 1976. Table 3 presents the annual pass prices for the demonstration.

TABLE 2. MINNYBUS ANNUAL PASS PRICES, 1974-1976

Type of Pass	Annual Price		
	1974	1975	1976
Husband and Wife	\$25	\$35	\$45
Children brought with above	7	12	15
Children alone	15	20	25
Elderly (over 62)	15	15	15
Single Adult	20	25	30
College Students living away	10	15	20

TABLE 3. ANNUAL PASS PRICES FOR DEMONSTRATION¹

Type of Pass	Annual Price (per person)
Adult	\$ 40.00
Child	35.00
Each additional family member	25.00
Elderly	15.00
2nd Elderly	12.50
College Student	20.00
Commuter	65.00
Shared-ride taxi (Maxytaxy)	395.00
Superpass	995.00

¹The demonstration is to be in effect for 22 months, beginning April 16, 1977.

The demonstration annual pass pricing has resulted in a further breakdown of the market segments being served consistent with the demonstration services being provided. The most important innovations are the Maxytaxy Pass (\$395) and the Superpass (\$995). The Maxytaxy Pass enables the holder to use the shared-ride taxi service at one-half fare any time during service hours for one full year by simply showing the pass to the driver. The Superpass enables the holder to use any of the services provided by the WTD directly or indirectly for one full year. The Superpass reflects the integration of the conventional bus transit service and the shared-ride taxi paratransit operation. It is an innovative attempt to induce individuals to rely on WTD services for all their transportation needs in Westport.

Without an annual pass, the passenger will be required to pay a regular fare. The fixed-route Minnybus fare will remain at \$0.50, which also includes one free transfer. The shared-ride taxi service will feature a payment system called "Maxymony." This will involve selling scrips worth \$25.00 for a price of \$20.00. It is intended to avoid the use of charge accounts by customers. Maxymony will also be the subject of a marketing campaign.

The regular fare for the shared-ride taxi service is based on a zonal system as presented in Table 4 and Figure 5.¹ All intrazonal trips are \$1.00, with the highest interzonal fare \$3.25 between Zones 3 and 14. There is no tipping in the Maxytaxy service. Instead, the drivers benefit from a profit incentive program based on vehicle productivity (to be discussed later in this report).

¹Appendix A contains the fare structure for the premium-ride taxi service.

This shared-ride taxi fare structure was set in the context of the service goal of providing Maxytaxy service on a breakeven non-subsidized basis. Thus the vehicle productivities (passengers per vehicle-hour) must be high enough to cover the cost of the vehicle operation. The demonstration will provide a major test of this approach.

TABLE 4. ZONAL FARE SYSTEM FOR SHARED-RIDE TAXI

[illegible]

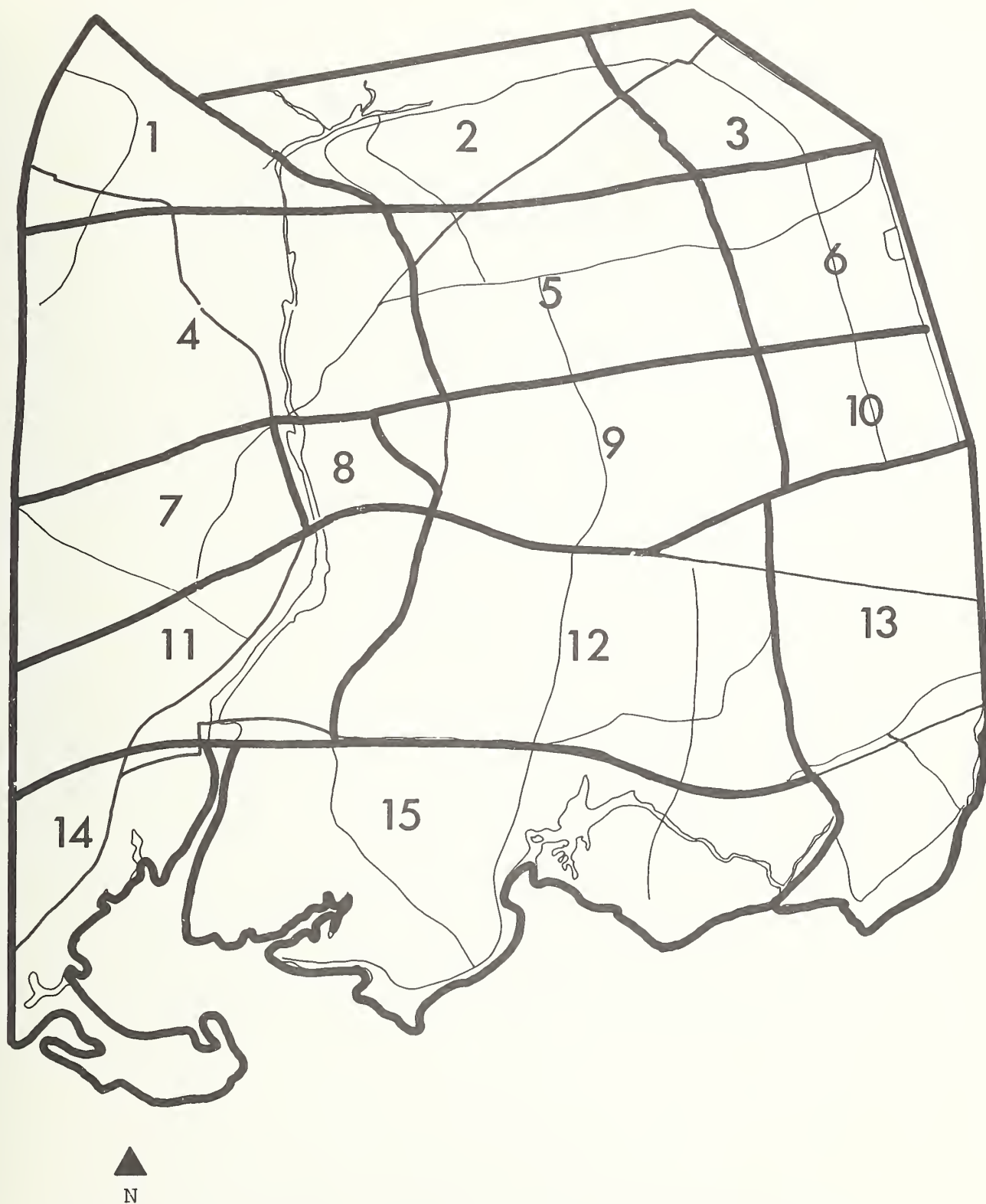


FIGURE 5. SHARED-RIDE TAXI FARE ZONES IN WESTPORT

4. IMPLEMENTATION PLAN

The implementation plan for the Westport demonstration project was based upon the Transit District acting as a broker, and upon a number of contractual relationships between the WTD and the private sector in the areas of management, maintenance and marketing. The brokerage function performed by the WTD encompasses operational brokerage through: a Control Center; support brokerage such as technical assistance for car pooling and van pooling; and informational brokerage through a transportation Information Center. The contractual relationships between the WTD and the private sector provided the service and operations integration that characterize the demonstration. Figure 6 depicts the overall demonstration structure in terms of the WTD brokerage, the contractual relationships, and the services provided to the public.

4.1 THE PRIVATE TRANSPORTATION COMPANY

The implementation plan called for the WTD to invite the two local taxi operators to form a single entity called a "private transportation company" to provide the new paratransit services under contract with the Transit District.¹ The formation of this private entity was an attempt of the public Transit District to integrate the valuable components of taxi structure and operations including taxi-type door-to-door service, dispatching capability, personnel experience, and the operators' familiarity with the local community geography and infrastructure.

¹This step has been completed, and a detailed description of the process is given in Chapter 5.

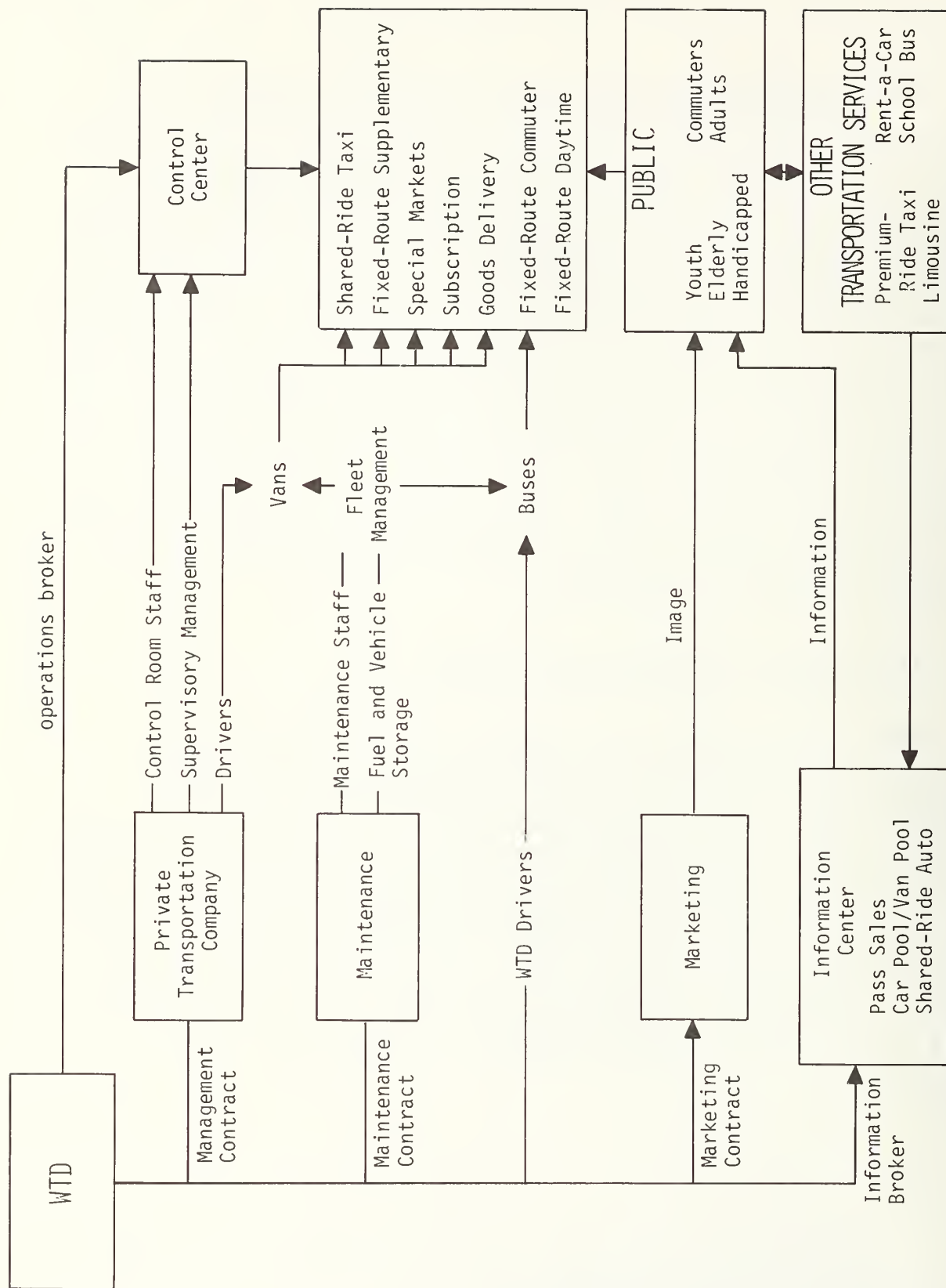


FIGURE 6. STRUCTURE OF WESTPORT DEMONSTRATION

A management contract was necessary with this "private transportation company" (or the successful bidder, if such a company could not be formed) to provide personnel and supervisory and management functions for the following system elements:

- 1) Paratransit services including shared-ride taxi, special-market services, subscription service, and small-goods delivery.
- 2) Specified supplementary fixed-route services.
- 3) Control center (to be discussed below) and dispatching services for the above named services, plus all fixed-route services provided directly by the Westport Transit District.

The private company under contract to the WTD had its own responsibility for hiring, payroll, and other personnel activities. This company would manage the shared-ride service and the additional service provided by the WTD.

The management contract was to be on a cost-plus-fixed-fee (CPFF) basis. The Transit District would collect all revenues derived from the services under this arrangement; the management company would submit bills for salaries, supplies, and other expenses. A fixed annual management fee was to be paid on a monthly basis to the private company.

The contract would also contain a provision for a bonus profit incentive based on efficient, safe, and productive operation of the shared-ride taxi service. This bonus profit was to be paid to management on a per-passenger basis, with the rate per passenger increasing as the productivity of the system increased. Dispatchers would also receive a profit incentive in recognition of their importance to a demand-responsive operation. Since the system did not allow for tipping, the drivers

would also receive a profit bonus based upon the number of passengers and the driving safety record. The safety factor was intended to discourage the driver from becoming too reckless in the pursuit of passengers.

4.2 CONTROL CENTER

The demonstration project also provided for the establishment of a Control Center which would be responsible for all communications and dispatching for the following services provided directly or indirectly (through contract) by the Westport Transit District:

- 1) Regular fixed-route bus services, both daytime and commuter (operated by the WTD).
- 2) Supplementary fixed-route services (operated by the WTD and the private contractor).
- 3) Paratransit services including shared-ride taxi, special-markets service, subscription service, and small-goods delivery (operated by private contractor).
- 4) Car pool information brokerage.

In addition, four privately owned and operated transportation services in Westport could have contracted with the WTD to provide Control Center functions for their operations:

- 1) Limousine and out-of-town livery services.
- 2) Rent-a-car services.
- 3) School bus operations.
- 4) Premium-ride taxi.

The Control Center would be the critical element in establishing the operational integration of the various services provided. The Control Center space and equipment would be provided directly by the WTD, while responsibility for the staffing and supervision would be contracted to the private transportation company.

The WTD would utilize a newly developed interactive telephone answering system, in order to minimize the requirements for Control Center staff. This equipment would enable a single full-time dispatcher to handle the entire control system for the majority of the service day.

4.3 PRIVATE MAINTENANCE CONTRACT

The WTD presently has a maintenance contract with the local school bus operator (whose garage is centrally located near the CBD) for the parking, storage, and cleaning of vehicles, in addition to the use of the mechanical facilities.

For the demonstration, a contract would be executed with the same maintenance contractor to provide complete maintenance facilities, maintenance staff, fuel, vehicle storage facilities, and maintenance supervision.

In addition, the Transit District has a preventive maintenance program for its Minnybus vehicles (Mercedes diesel buses) which would be extended to cover the demonstration vehicles (modified Dodge Maxivans, gas powered). The District uses its own mechanics to do this work. One additional mechanic has been hired to handle the increase in work resulting from the addition of the taxi vehicles and the purchase of two more buses purchased under separate grant for the Minnybus fleet.

This private/public maintenance effort is intended to provide a strong capability for servicing both the gasoline and diesel vehicles.

4.4 PRIVATE MARKETING CONTRACT

A promotional and marketing program would be a major part of the Westport demonstration. This would be an outgrowth of the extensive marketing which has been associated with the growth of the Minnybus service. The WTD presently has a contract with the professional firm located in Fairfield, Connecticut; the demonstration project marketing would also be handled by this firm under contract.

The marketing program would stress the comprehensiveness of the system services and the complementary nature of the services provided.

The current red and white color scheme of the WTD diesel bus vehicles would be extended to the new taxi fleet. The taxis would also adopt the identifying logo of "Maxytaxy" in the tradition of the other WTD vehicles "Minnybus" (16 seats) and "Maxybus" (33 seats). The stated goals of the marketing program would be as follows:

- 1) To impart to the public a full understanding of the available transportation options within the system.
- 2) To provide an increased awareness of taxi services as an alternative to the automobile.
- 3) To extend the positive image of current WTD services to the new paratransit services that will be introduced.

The marketing program would be implemented via local newspaper advertising, radio recordings on local area stations, direct mail promotion, in-vehicle advertising, and information displays at the Jesup Green transfer terminal and Saugatuck Railroad station.

This demonstration would provide an innovative marketing approach involving professional promotion of an integrated system of transit and paratransit services.

4.5 TRANSPORTATION INFORMATION CENTER

In the performance of the role as an information broker, the WTD would set up a transportation Information Center in or near downtown Westport. This Center would provide comprehensive information on all transit and paratransit services in Westport as well as premium-ride taxi, regional bus service, commuter rail service, and rent-a-car services. In addition, this office would provide information on airline schedules for New York City airports for such flights as Boston and Washington shuttles. An individual may obtain any of this information either by telephone or through visiting the office. Smaller information stands, focusing primarily on local transportation, would be located in the downtown shopping area and at the railroad stations.

The Information Center would also handle the annual pass sales and coordinate car pool and van pool efforts.

5. ACTUAL IMPLEMENTATION PROCESS

The implementation process for the Westport demonstration began in August 1976 with the awarding of an UMTA \$610,000 demonstration grant. This amount was to cover capital expenses and operating deficits over the planned 22-month demonstration period.¹ The actual demonstration services were initiated (implemented) on April 16, 1977 approximately eight and one-half months later. In the interim, the demonstration grantee, the Westport Transit District, performed all the necessary tasks to implement these services. These tasks included: acquisition of the demonstration vehicles and capital equipment; extensive negotiations with the local taxi operators; negotiation and execution of contracts relative to private operator project management, maintenance, and marketing; setting up the Control Center; and associated activities relating to fare structure, management, and administration of the project. To coordinate the implementation effort, the Westport Transit District hired a project manager in October 1976; this project manager also had the responsibility for maintaining liaison with UMTA and developing an operational methodology for the system.

5.1 ACQUISITION OF DEMONSTRATION VEHICLES AND CAPITAL EQUIPMENT

In the summer and fall of 1976, the WTD solicited bids for the demonstration project's capital purchases. The three major capital purchases were:

¹Appendix B is the project operating budget as of January 1, 1977.

- 1) Eleven twelve-passenger raised-roof vans (Dodge Maxivans), two of which are equipped with hydraulic lifts and other special equipment to serve the needs of the handicapped.
- 2) A communication system which includes a base station unit and mobile unit for each vehicle.
- 3) An automatic voice-activated telephone answering unit for receiving requests for shared-ride services.

Table 5 presents a breakdown of the contract information for each capital item.

TABLE 5. DEMONSTRATION CAPITAL PURCHASES

Capital Item	Capital Cost	Contract Date	Delivery Date
Vans (11) 9 regular @ \$15,672.13 each 2 lift @ \$18,244.13 each	\$177,537	9/23/76	Mar/Apr 1977
Vehicle Communication System Base Unit 17 2-way radios (11 for vans)	\$ 21,741	10/8/76	Jan/Feb 1977
Automatic Telephone Answering Unit	\$ 13,475	9/27/76	Dec 1976

The total capital cost attributed to the demonstration was approximately \$196,000.¹

¹Not all of the equipment purchased was purchased with demonstration funds; capital grants were used for the purchase of some items.

5.2 NEGOTIATIONS WITH LOCAL TAXI OPERATORS

One of the major implementation efforts concerned the negotiations with the two local taxi operators: Westport Taxi Company Inc. and Teddy's Taxi, Inc. The plan called for these two operators to combine some of their activities to form the "Private Transportation Company" solely for the purpose of managing the proposed shared-ride taxi service. Each operator would still be allowed to operate premium-ride taxi service as desired.

Some background information is necessary to place these negotiations in the proper context. Each company usually operates a fleet of five vehicles, with each fleet controlled from an individual dispatch center in Westport. The general consensus among the WTD Directors and the operators themselves has been that there are two taxi operators in a "one-taxi town." This fact created a good deal of competition among these operators for the taxi business that was available. Most of the daily business centered around peak-period morning and evening trips between residences and the railroad stations in Westport. The operators also complained about an antiquated zone-based fare system which had not kept pace with the rising costs of operations.¹

The economic woes of the taxi operators were reflected in the annual reports submitted to the Connecticut Public Utilities Control Authority (PUCA), which controlled and regulated the taxi businesses in the state.² The records indicated that

¹The current taxi fare structure is presented in Appendix A.

²The state transit district legislation (Chapter 103a) provides that a duly constituted transit district may assume this regulation authority at any time through a written notification of intent to be filed with the PUCA.

both of these firms had been losing money since 1968. The operators counteracted these economic disadvantages through a variety of measures, including: payment of minimum wages to drivers and dispatchers; self-exploitation in terms of excessive work hours; operating older, fully depreciated vehicle fleets; grouping riders whenever possible (which legally requires the consent of the first passenger); and by subsidizing the taxi business by operating rent-a-car services in conjunction with the taxi operations.¹

The actual demonstration-related negotiations had also been preceded by a history of negotiations and communications dating back to January 1974. This initial contact between the WTD and the taxi operators was precipitated by the proposed implementation of the fixed-route Minnybus transit service in the summer of 1974. At that time, the WTD Directors expressed their support of continuing and revitalizing the taxi service in Westport. The Westport Taxi Co., however, expressed concern over the potential damage the fixed-route services could have on their taxi business. A series of meetings were conducted through April 1974, in which the Westport Taxi Co. suggested a buy-out of their business. The parties agreed to take a wait-and-see attitude in order to assess the actual impact of the bus service on taxi operations.

A second round of meetings occurred between December 1974 and April 1975. The agenda included a discussion of the impact of the bus operations on the taxi business, and a discussion on a WTD proposal to find specific ways to integrate the two local taxi operators in some kind of dial-a-ride service under the management of the Transit District. The WTD had become exposed to the national interest in integrating taxis in the public

¹Teddy's Taxi also operates a limousine service.

sector to provide paratransit services. The Westport Taxi Co., however, still expressed a desire to be bought out by the Transit District; as a second option they suggested the WTD buy out Teddy's Taxi, Inc. and lease that service to Westport Taxi. At this point the Westport Taxi Co. estimated the value of their business at \$200,000, which was an increase of \$100,000 from a previous estimate.

The period from April 1975 to December 1975 was concerned with the application for, approval of, and performance of an UMTA-funded feasibility study relative to integrating conventional transit and paratransit services. From September to December 1975 the two local operators met on numerous occasions with the private consultant performing the study for the WTD; much information was provided relative to their businesses and operations.

With the completion of the study in January 1976, a public hearing was held to present the plan to the general public. Neither taxi operator attended this meeting; the Transit Directors assumed the taxi operators' general support as a result of their absence and some other communications.

The period from February to April 1976 witnessed the breakdown in communications between the two taxi operators. In February 1976 the owners of Teddy's Taxi notified the WTD that the formation of a single company to undertake the work in the plan was impossible because of irreconcilable differences between them and the owners of the Westport Taxi Company. In addition to the constant competition for business, the two operators were suing each other over certain in-town taxi rights. Furthermore, the owners of Teddy's Taxi suggested that a buy-out of one operation by the other was the best possibility. A similar meeting with the Westport Taxi Co. confirmed this fact. It was clear at this point that joint meetings with both operators present would not be productive.

Since the demonstration plan had been submitted for funding in April 1976 and the WTD was still interested in involving both local taxi operators, the new negotiation strategy selected was one of mediation and brokerage. The WTD attempted to meet separately with each operator to discuss various options, including one party buying out the other (no agreement could be reached on prices), a third-party buy-out of both parties (the third party was Terminal Taxi of New Haven), and the trading of certain in-town and out-of-town taxi rights between the two operators. The difficulty in these negotiations was apparent from the fact that Westport Taxi Co. valued their franchise at \$250,000, while Teddy's Taxi Co. valued their franchise, comparable in size and revenue, at \$50,000.

The awarding of the demonstration grant in August 1976 made it imperative that these negotiations be resolved successfully in some manner in the relatively near future. By the end of October 1976, after having met with the taxi operators on more than two dozen occasions and having reduced the franchise values to \$100,000 for Westport Taxi, and \$40,000 for Teddy's Taxi (both of these amounts exceeded the funds available for a buy-out in the management fees), the WTD made a final proposal.

Each company was given two weeks (until the second week of November) to respond to the Transit District with a responsible proposal, or the District would request bids for the management of the project. At the end of this period, the Westport Taxi Company returned with two proposals, both of which were cost-prohibitive (more than \$100,000) in terms of funds available.

The Transit District, therefore, sent out requests for bids on managing the shared-ride taxi services. Requests were sent to the two local taxi operators, the local school bus contractor (maintenance contractor for the Minnybus), and two other taxi operators in the state who were interested in

providing shared-ride services in their own areas. Bidding however was not restricted to these five parties. All bids were to be returned by December 14, 1977. A responsive bid was received from Terminal Taxi Co. in New Haven, and a joint bid was received from Teddy's Taxi Co. and the Masiello Bus Co., the local school bus contractor.

The bids received included itemized amounts for drivers and dispatchers, with a detailed breakdown on benefits and incentives for each of these groups. In addition, each bid specified the management fee for each year of the demonstration. Finally, a 5 percent cost-of-living factor was included.

The other local taxi operator, the Westport Taxi Co., elected not to bid and to contest the demonstration on legal grounds in federal court.

5.3 LEGAL PROCEEDINGS AGAINST DEMONSTRATION PROJECT

The inability to integrate the Westport Taxi Co. into the project introduced legal proceedings into the implementation process. The plaintiffs, owners of Westport Taxi Co., engaged counsel and placed a petition before the U.S. District Court for a temporary restraining order to prevent the WTD from opening the bids that were received. The court denied the temporary restraining order but stated that, since the Westport Taxi Co. was also seeking an injunction against the project, the WTD would be required to give the court and the Westport Taxi Co. three days' notice before actually awarding the bid contract.

A hearing on a temporary and permanent injunction was held in U.S. District Court in New Haven on January 11 and 12, 1977. The plaintiffs were seeking to enjoin the Secretary of Transportation and the Westport Transit District from implementing the project; briefs were filed by each of these three parties.

The plaintiffs' brief contended that:

- 1) The WTD had not complied with various UMTA regulations¹ relative to a public hearing, environmental impact, certification of the project as necessary to the development of a coordinated, comprehensive transportation plan, and the failure to provide for maximum feasible participation of private transportation companies.
- 2) The demonstration project will unconstitutionally curtail and compete with the plaintiff's publicly licensed and regulated taxi franchise. The brief contended that the demonstration would directly compete with the premium-ride service and eliminate the shared-ride service which was essential for their business.
- 3) Westport Taxi Co. was a private transportation company per Section 1602e (3e protections) of the UMT Act and hence was entitled to the protections in that Act especially regarding just and adequate compensation for acquisition of their franchise.

The defendant brief filed by the federal government focused on the intent of the UMT Act, particularly Section 6, which is to foster short-term projects for testing new methods by which to increase the efficiency and productivity of transportation systems. The brief contended that the demonstration project was not subject to Sections 3(e), 5(i) and 14(c) of the UMT Act

¹Appendix C contains selected sections of the Urban Mass Transportation Act (UMT Act) pertinent to the legal issues in the Westport case.

which had been identified by the plaintiffs. Various references were cited on the exemption of Section 6 demonstration projects from these requirements.

The federal brief also contended that Westport Taxi Co. was not a mass transportation company since Congress never intended premium-ride taxi service to be included under this heading. In addition, the brief contended that the "shared-ride" taxi service provided by Westport Taxi also did not qualify it for protection. An important distinction was made between shared-ride service under the Connecticut PUCA and shared-ride service in terms of UMTA policy. Under the PUCA regulation, consent of the patron first hiring the taxi had to be obtained before additional patrons could be carried. Thus an individual by refusing consent could reserve the cab for exclusive use. Under UMTA's policy, "shared-ride" services are only those in which the vehicle may not be reserved for the exclusive use of an individual.

The brief filed in behalf of the WTD contended that Westport Taxi Co. was being subjected to competition from which they had no right to be free; references were cited on the contention that publicly regulated franchises are not free from public competition. Arguments were also made that although Westport Taxi Co. did not qualify as a private mass transportation company, they still had been provided with a "fair and timely opportunity" to participate in the project. The brief cited the length of the negotiating period as well as the non-required public hearing that was held on the project. Two reasons were given for the failure to reach an agreement:

- 1) The total inability of the private taxi companies to cooperate or buy each other out.
- 2) The continuously rising financial demands of the plaintiffs.

Finally, the WTD brief contended that there was no unconstitutional taking of the plaintiffs' property and even if there were, state procedures on an alleged economic loss must be followed first.

The U.S. District Court issued its ruling on April 13, 1977.¹ The court denied the plaintiffs' request for injunctive relief as well as the request to declare the approval of the grant application invalid. In ruling on the plaintiffs' motions, however, the court accepted the standing of Westport Taxi Co. to sue as arguably within the zone of interest Congress sought to protect by paying special attention to private mass transportation companies. However, the court dismissed the motion on non-compliance with UMTA regulations since Section 6 was clearly exempt from other provisions in the UMT Act applicable to Section 3 projects.

On the issue of a taking of property, the court ruled that no franchise or property interest had been acquired to trigger a duty to compensate. However, the court further stated that the plaintiffs may have a claim for compensation grounded in a state law relative to their contention that their franchise from the PUCA assured them immunity from further competition unless there has been a determination by the PUCA that additional service is required by public convenience and necessity.

¹The Ruling of the United States District Court in the Westport case (Westport Taxi Service Inc. Et Al v. Brock Adams, Secretary of Transportation, Et Al) is presented in Appendix D.

5.4 EXECUTION OF CONTRACTS ON MARKETING, MAINTENANCE AND MANAGEMENT

During the course of the legal proceedings, the WTD continued work on executing the project contracts on marketing, maintenance, and project management. In January 1977 a contract was signed with the private advertising firm of Shailier, Davidoff and Rogers for marketing associated with the demonstration; the contract amount was \$31,962. This contract continued and expanded the relationship with the firm that had marketed the Minnybus image.

The maintenance contract was awarded to the Masiello Garage on April 1, 1977. This contract was also an expansion of the existing Minnybus maintenance arrangement. This contract included the items in the maintenance plan relative to storage and cleaning of vehicles, fleet management, and maintenance personnel to cover gasoline engine vehicles and diesel vehicles. The total contract amount was \$53,000.

The management contract proved to be the most time-consuming of the three operational contracts. The Transit District selected the joint Teddy's Taxi/Masiello bid over the Terminal Taxi Inc. bid from New Haven; the preference for a local operator was a major factor in this decision. The name for this new "private transportation company" is the "Westport Transport Corporation"; this company has four directors, with two from each company in the joint bid. The first- and second-year management fees are \$24,000 and \$22,000 respectively. The profit incentive program for drivers has a base hourly salary of \$4.00, with an additional \$0.25 per hour after 60 days, plus \$0.05 per passenger. At a vehicle productivity of four passengers per hour, a driver will earn \$4.45 per hour after 60 days.

There is no direct financial safety incentive for the drivers; however, they may be suspended for any accident for which they are deemed to be at fault.

The management and dispatchers are also included in a profit incentive program. The hourly wage for the dispatcher is \$4.75 under the contract provisions. The contract also provides for a separate account to be set up in the amount of \$3,640 per year; this amount resulted from a calculation of \$0.50 per hour for a 140-hour dispatcher work week multiplied times 52 weeks for the year. The management of the private company could pay the dispatchers any amount from this fund for a profit bonus for productive dispatching.

Three or four major work sessions were required between the WTD and the joint bidders to reach a consensus on the management contract provisions. The contract was signed on April 1, 1977. In addition, all the contracts for the demonstration had to receive UMTA concurrence.

One final note on the management contract involved an offer from one of the joint bidders (Masiello) to the Westport Taxi Co. relative to performing some of the dispatching during the demonstration. The Westport Taxi Co. rejected this offer in favor of pursuing litigation.

5.5 CONTROL CENTER AND INFORMATION CENTER

The remaining major implementation items related to setting up the Control Center for operational brokerage and the Information Center for informational brokerage. The Control Center was set up in a section of the maintenance garage building in the same room with the Minnybus radio equipment. The communications equipment was installed to hook up the voice-activated telephone answering system for shared-ride services. One dispatcher is capable of handling this operation with this equipment.

The Information Center has been set up in the old WTD offices on the Route 1 spine.¹ This site is centrally located near the CBD area and is accessible by either personal visit or by telephone. The Center is developing a comprehensive information base on all local and regional transportation services available to the people of Westport. This includes the local transit and paratransit services as well as premium-ride taxi, regional bus service, commuter rail service, and rent-a-car services. The Information Center will also provide information on frequently used airline flights such as the Washington and Boston shuttles from New York.

Later in the demonstration the WTD may move the Information Center directly into the CBD area in one of the public buildings.

5.6 ASSOCIATED ACTIVITIES

The balance of the implementation effort involved a series of activities related to the demonstration but not directly required by it; these included a pre-demonstration survey, coordinating the introduction of a management information system, and conducting a hearing on fare changes as required by state law. In the fall of 1976 the WTD conducted its third annual survey of Minnybus ridership (both commuter and daytime) as well as telephone surveys of the elderly, the general public, new residents, and passholders. This provided a pre-demonstration base on survey information, user attitudes, taxi usage, etc.

¹Near the start of the demonstration, the WTD moved their central offices directly across the street to the maintenance building structure.

Concurrent with the demonstration, the WTD is also introducing a management information system which may provide some of the data and information for evaluation of the demonstration. This required some coordination work on the part of the WTD project manager.

Finally, in accordance with state law, the WTD conducted a public hearing in March, 1977 on the proposed fare structure for the shared-ride taxi service. This was expanded to include a presentation on the entire demonstration project. The owners of the Westport Taxi Co. were in attendance at this hearing and voiced their objection to the project.

Formal ceremonies initiating demonstration services were held on April 16, 1977.

6. IMPLICATIONS

The experience of the Westport Transit District in implementing integrated transit and paratransit services provides some important lessons in the implementation process.

A public transit entity contemplating the introduction of integrated services should first investigate the full legal and regulatory context in which it operates relative to enabling legislation, regulatory agencies, and local ordinances. This will provide a full understanding of the agency's institutional context and will delineate what options are available for implementing integrated services. The WTD was in a relatively strong position regarding its potential state PUCA power over taxi operations within its jurisdiction. This may not always be the case. A thorough analysis, however, would clarify the appropriate channels or reveal the need to create the appropriate channels through legal and regulatory change.

A similar investigative effort should be applied to potential taxi operators who may serve as management contractors. This would establish the options available to the taxi operator in terms of participating in a project of this nature. A review of the public records associated with these taxi operators would reveal the financial condition of the businesses (as did the PUCA records on the Westport operations) and serve as useful information in early negotiations.

Any formal negotiations should be preceded by informal meetings stressing each entity's role in providing transportation services and the potential for increased efficiency, productivity, and profit if the public and private sectors could collaborate in the provision of services. This effort would be conducive to a more congenial negotiating environment.

The WTD experience also provides insight into the intense competition for local taxi business, the pride in premium-ride service, and the tendency for self-exploitation in terms of work hours and hourly wage. It may also be the case (as in Westport) that taxi operators have already been affronted by the introduction of fixed-route transit services. The public agency must be aware of and sensitive to these factors. It may also be the case that older, more traditional taxi businesses are more reluctant to undertake a cooperative venture than a less established taxi business.

In either case, it is clear that the critical element in the management contract negotiations is money. The use of a cost-plus-fixed-fee (CPFF) contract eliminates the financial risk on the part of the taxi operator. The private company is covered for its costs as well as being paid a management fee each year. A most important inducement would appear to be the use of a profit incentive program for management, drivers, and dispatchers, based on system productivity levels. Such a program could be tailored to the particular setting of the project.

If the public agency is dealing with several taxi operators at one time, it should explore the most appropriate communication mechanism and implementation method. Methods include joint meetings, individual meetings with the agency serving as a broker, and buy-out or cooperative ventures. The most appropriate means depends on the future goals of each taxi business and their relationship with one another.

If negotiations should fail and result in legal proceedings, the public transit entity should be fully versed in the legal issues concerning unfair competition, what constitutes a mass transportation company, compensable damages, and the legal opinions on shared-ride services in terms of state definitions and UMTA policy.

In terms of the integrated-services approach and the public response, the key areas of transferability in the Westport demonstration appear to be with respect to marketing, information brokerage, and the use of annual passes. Marketing has been a major element in the Minnybus success in Westport, and this approach has carried over into the demonstration. Professional marketing is even more important relative to integrated services in terms of making the public aware of the centrally managed transportation options and inducing use of the services provided. The Information Center is also conducive to this public awareness but is more oriented to providing specific information on services and answering specific questions. Finally, the annual passes are an important element relative to identifying the new shared-ride mode (Maxytaxy) and in providing a comprehensive pass (Superpass) for all the system services.

In terms of WTD's own approach to the implementation of the project, it appears that contracting with the private sector is a major feature in establishing integrated services. The WTD has entered into contractual relationships for project management, van fleet maintenance and professional marketing. Smaller transit entities can benefit from this approach since they usually do not have the capability to undertake such a project with their own direct resources; in addition, the contractual approach clarifies the operational responsibilities and ascertains the financial relationship between the parties involved.

APPENDIX A. FARE STRUCTURE FOR PREMIUM-RIDE TAXI SERVICE IN WESTPORT

This fare structure, presented below, is antiquated both in its origins and philosophy. It is a zoned-based fare structure which derives from the pre-radio dispatch era. The zones radiate from the dispatcher's office at Westport center (Westport Taxi Co.) or at the Saugatuck Station (Teddy's Taxi). The fare structure includes the deadheading distance from the dispatch office to the pickup point as well as the passenger trip distance. Since the last approval of this fare structure in 1970, the only change has been a 10% surcharge granted to all Connecticut taxi operators in September 1975 as a result of the increased price of gasoline.

<u>Distance in Miles</u>	<u>Fare</u> ¹
1 to 1.5	\$1.05
1.5 to 2	1.30
2 to 2.5	1.55
2.5 to 3	1.80
3 to 3.5	2.15
3.5 to 4	2.40
4 to 4.5	2.65
4.5 to 5	2.90
Over 5	.70 per additional mile

¹\$0.50 per additional passenger

APPENDIX B. DEMONSTRATION PROJECT OPERATING BUDGET-JANUARY 1, 1977¹

<u>Personnel</u>	<u>1977</u>	<u>1978</u>
Project Manager	\$ 13,500	\$ 16,524
Executive Director	3,750	4,050
Secretary	4,500	4,860
Data Collection	5,625	6,075
T. D. Drivers	<u>12,960</u>	<u>16,575</u>
	\$ 42,135	\$ 48,084
 Fringe Benefits	 \$ 10,534	 \$ 12,521
Travel	2,500	2,500
 <u>Supplies</u>		
Supplementary Fixed Routes	8,119	11,624
WTD Fixed Routes	34,432	39,816
Shared-Ride Taxi	29,505	39,857
Special Services	4,166	4,499
Marketing	<u>2,000</u>	<u>2,162</u>
	\$ 78,222	\$ 97,958
 <u>Contractual</u>		
Supplementary Fixed Route	P.O. \$ 17,483	\$ 24,322
	P.M. 6,750	9,720
Shared-Ride Taxi	P.O. 100,850	134,826
	P.M. 6,750	9,720
Special Services	P.O. 11,232	12,131
	P.M. 2,250	2,430
Control Room	44,158	58,715
Management Fees	20,000	25,920
Consultants	25,000	2,700
Legal	12,000	3,240
Accounting Fees	3,000	3,240
Marketing	18,000	11,200
Data Collection	7,500	8,100
Occasional Provider	<u>21,580</u>	<u>43,160</u>
	\$296,553	\$349,424
 Contingencies	 26,127	 37,729
	<u>\$456,071</u>	<u>\$547,946</u>
 Revenue	 \$171,435	 \$264,916
Net Costs	284,636	283,004
UMTA	227,708	226,424
ConnDOT	50,000	48,601
WTD	8,000	8,000

P.O. - Private Taxi Operator

P.M. - Private Maintenance Contractor

¹When this budget was originally proposed, 1977 was a 9-month year, and 1978 was a 12-month year.

APPENDIX C. SELECTED SECTIONS OF THE URBAN MASS TRANSPORTATION ACT

The legal issues in the Westport case concern several sections of the UMT Act:

1601(a) (b)	Declaration of findings and purposes
1602(d)	Notice and public hearings
1602(e)	Private transit operators
1605	Research, development and demonstration projects
1605(a)	Phases of urban mass transportation; acquisition of data
1608(c) (5)	Definition of "mass transportation"
1610	Environmental Protection

These sections are presented below and are referenced in the U.S. District Court decision in Appendix D.

1601. Declaration of findings and purposes.

(a) The Congress finds--

(1) that the predominant part of the Nation's population is located in its rapidly expanding metropolitan and other urban areas, which generally cross the boundary lines of local jurisdictions and often extend into two or more States;

(2) that the welfare and vitality of urban areas, the satisfactory movement of people and goods within such areas, and the effectiveness of housing, urban renewal, highway, and other federally aided programs are being jeopardized by the deterioration or inadequate provision

of urban transportation facilities and services, the intensification of traffic congestion, and the lack of coordinated transportation and other development planning on a comprehensive and continuing basis; and

(3) that Federal financial assistance for the development of efficient and coordinated mass transportation systems is essential to the solution of these urban problems.

(b) The purposes of this chapter are--

(1) to assist in the development of improved mass transportation facilities, equipment, techniques, and methods, with the cooperation of mass transportation companies both public and private;

(2) to encourage the planning and establishment of areawide urban mass transportation systems needed for economical and desirable urban development, with the cooperation of mass transportation companies both public and private; and

(3) to provide assistance to State and local governments and their instrumentalities in financing such systems, to be operated by public or private mass transportation companies as determined by local needs...

1602(d). Notice and public hearings.

Any application for a grant or loan under this chapter to finance the acquisition, construction, reconstruction, or improvement of facilities or equipment which will substantially affect a community or its mass transportation service shall include a certification that the applicant--

(1) has afforded an adequate opportunity for public hearings pursuant to adequate prior notice, and has held such hearings unless no one with a significant economic, social, or environmental interest in the matter requests a hearing;

(2) has considered the economic and social effects of the project and its impact on the environment; and

(3) has found that the project is consistent with official plans for the comprehensive development of the urban area.

Notice of any hearings under this subsection shall include a concise statement of the proposed project, and shall be published in a newspaper of general circulation in the geographic area to be served. If hearings have been held, a copy of the transcript of the hearings shall be submitted with the application.

1602(e). Private transit operators.

No financial assistance shall be provided under this chapter to any State or local public body or agency thereof for the purpose, directly or indirectly, of acquiring any interest in, or purchasing any facilities or other property of, a private mass transportation company, or for the purpose of constructing, improving, or reconstructing any facilities or other property acquired (after July 9, 1964) from any such company, or for the purpose of providing by contract or otherwise for the operation of mass transportation facilities or equipment in competition with, or supplementary to, the service provided by an existing mass transportation company, unless (1) the Secretary finds that such assistance is essential to a program, proposed or under active preparation, for a unified or officially coordinated urban transportation system as part of the comprehensively planned development of the urban area, (2) the Secretary finds that such program, to the maximum extent feasible, provides for the participation of private mass transportation companies, (3) just and adequate compensation will be paid to such companies for acquisition of their franchises or property

to the extent required by applicable State or local laws, and (4) the Secretary of Labor certifies that such assistance complies with the requirements of section 1609(c) of this title...

1605. Research, development, and demonstration projects.

(a) Phases of urban mass transportation; acquisition of data.

The Secretary is authorized to undertake research, development, and demonstration projects in all phases of urban mass transportation (including the development, testing, and demonstration of new facilities, equipment, techniques, and methods) which he determines will assist in the reduction of urban transportation needs, the improvement of mass transportation service, or the contribution of such service toward meeting total urban transportation needs at minimum cost. He may undertake such projects independently or by grant or contract (including working agreements with other Federal departments and agencies). In carrying out the provisions of this section, the Secretary is authorized to request and receive such information or data as he deems appropriate from public or private sources...

1608. General provisions...

(c) Definitions...

(5) the term "mass transportation" means transportation by bus, rail, or other conveyance, either publicly or privately owned, which provides to the public general or special service (but not including school buses or charter or sightseeing service) on a regular and continuing basis...

1610. Environmental protection.

(a) It is hereby declared to be the national policy that special effort shall be made to preserve the natural beauty

of the countryside, public park and recreation lands, wildlife and waterfowl refuges, and important historical and cultural assets, in the planning, designing, and construction of urban mass transportation projects for which Federal assistance is provided pursuant to section 1602 of this title. In implementing this policy the Secretary shall cooperate and consult with the Secretaries of Agriculture, Health, Education, and Welfare, Housing and Urban Development, and Interior, and with the Council on Environmental Quality with regard to each project that may have a substantial impact on the environment.

(b) The Secretary shall review each transcript of hearing submitted pursuant to section 1602(d) of this title to assure that an adequate opportunity was afforded for the presentation of views by all parties with a significant economic, social, or environmental interest, and that the project application includes a detailed statement on--

- (1) the environmental impact of the proposed project,
- (2) any adverse environmental effects which cannot be avoided should the proposal be implemented.
- (3) alternatives to the proposed project, and
- (4) any irreversible and irretrievable impact on the environment which may be involved in the proposed project should it be implemented.

(c) The Secretary shall not approve any application for assistance under section 1602 of this title unless he finds in writing, after a full and complete review of the application and of any hearings held before the State or local public agency pursuant to section 1602(d) of this title, that

- (1) adequate opportunity was afforded for the presentation of views by all parties with a significant economic, social, or environmental interest, and fair consideration has been given to the preservation and enhancement of the environment

and to the interest of the community in which the project is located, and (2) either no adverse environmental effect is likely to result from such project, or there exists no feasible and prudent alternative to such effect and all reasonable steps have been taken to minimize such effect. In any case in which a hearing has not been held before the State or local agency pursuant to section 1602(d) of this title, or in which the Secretary determines that the record of hearings before the State or local public agency is inadequate to permit him to make the findings required under the preceding sentence, he shall conduct hearings, after giving adequate notice to interested persons, on any environmental issues raised by such application. Findings of the Secretary under this subsection shall be made a matter of public record.

APPENDIX D. RULING OF U.S. DISTRICT COURT IN THE WESTPORT CASE

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

WESTPORT TAXI SERVICE,
INC., ET AL

:
:

V.

:

CIVIL NO. B-76-369

BROCK ADAMS, SECRETARY OF
TRANSPORTATION, ET AL

:

RULING ON MOTIONS

Plaintiff Westport Taxi Service, Inc. ("Westport Taxi") is a private taxi company owned by plaintiffs Michael and Anthony Gilbertie and operated by the Gilberties in the Town of Westport under a Certificate of Public Convenience and Necessity from the Connecticut Public Utilities Control Authority ("PUCA"). Plaintiffs bring this action to challenge the implementation by the defendant Westport Transit District ("Transit District") of a municipal taxi service as part of an experimental suburban mass transportation plan to be supported in part by a grant of federal fund under the Urban Mass Transportation Act, 49 U.S.C. § 1601 et seq. ("UMTA"). The other defendants in addition to the Transit District are the Secretary of Transportation of the United States and the directors of the Westport Transit District. The complaint alleges various violations of the provisions of UMTA in the

decision to award federal financial assistance to the Westport project and asserts that the failure to compensate Westport Taxi for the losses it will incur from competition from the project constitutes a taking of property without just compensation in violation of UMTA and of the Fifth and Fourteenth Amendments to the United States Constitution.

The plaintiffs have moved for a temporary restraining order and for a preliminary injunction. Defendants have moved to dismiss and for summary judgment. An evidentiary hearing was held. After the close of the hearing the plaintiffs advised the Court that because they had no further evidence to submit on the merits, the hearing on the injunction could be deemed the hearing on the merits. Fed. R. Civ. P. 65(a). This memorandum will thus dispose of all the claims made by the parties.

I. Standing

All defendants argue that plaintiffs have no standing under UMTA to maintain this suit. They begin with the Supreme Court's interpretation in Association of Data Processing Service Organizations v. Camp, 397 U.S. 150 (1970), of the provision of the Administrative Procedure Act for judicial review of agency action, 5 U.S.C. § 702.^{1/} In Data Processing the Court set forth a two-pronged test for standing to challenge agency action. The first prong is met if the complainant alleges injury in fact, economic or otherwise. The second is met if the interest sought to be protected by the complainant is "arguably within the zone of interests to

be protected or regulated by the statute or constitutional guarantee in question." 397 U.S. at 153.

Both of these tests are satisfied in the present case. The complaint adequately alleges concrete economic injury to the plaintiffs from the defendants' actions in the form of a decrease in operating revenues and profits so severe that the plaintiffs may be forced out of business. Whether this injury is real, as the plaintiffs claim or speculative, as the defendants claim, is a question relating to the merits and not to standing. 397 U.S. at 153, 156.

With respect to the second prong of the test, that the interest invoked be "arguably within the zone of interests" protected by the statute in question,^{2/} Data Processing effectively puts to rest defendants' claim that plaintiffs have no standing to challenge agency action benefiting a competing provider of transportation services. Data Processing itself was a competition case, in which data processors were held to have standing to challenge a ruling of the Comptroller of the Currency allowing banks to provide data processing services in competition with the plaintiffs in alleged violation of a statute restricting bank activities to the performance of bank services. See also Arnold Tours, Inc. v. Camp, 400 U.S. 45 (1970); Investment Co. Institute v. Camp, 401 U.S. 617 (1971); Safir v. Gibson, 417 F.2d 972 (2d Cir. 1969). As the Supreme Court stated in Hardin v. Kentucky Utilities Co., 390 U.S. 1, 6 (1968), "when the particular statutory provision invoked does reflect a legislative purpose to protect a

competitive interest, the injured competitor has standing to require compliance with that provision."^{3/}

In enacting UMTA, Congress manifested a concern for private transit operators by requiring the Secretary of Transportation to make a finding for each program to receive assistance under the Act "that such program, to the maximum extent feasible, provides for the participation of private mass transportation companies." 49 U.S.C. § 1602. This provision brings "private mass transportation companies" within the zone of protected interests under the Data Processing test.^{4/}

Plaintiffs argue that Westport Taxi is a "private mass transportation company" within the meaning of UMTA. The statutory definition of "mass transportation" is found in 49 U.S.C. § 1608(c)(5), which defines the term to mean

transportation by bus, rail, or other conveyance, either publicly or privately owned, which provides to the public general or special services (but not including school buses or charter or sightseeing service) on a regular and continuing basis.

Defendants argue that the fact that Westport Taxi offers "premium ride" or "exclusive ride" service -- that is, service that can be limited to the exclusive use of a single passenger or group -- takes the plaintiffs out of the zone of interests Congress intended to protect when it made special provision for "private mass transportation companies." While it may be true that Congress did not intend to subsidize exclusive ride services,^{5/} it is also true that this particular variety of transportation service is not the only service Westport Taxi provides.

Rather, a substantial portion of Westport Taxi's business comes from its shared-ride service, under which passengers traveling in the same direction use the same cab if the initial passenger agrees to the sharing. As a private provider of one type of shared-ride service, albeit with the consent of the first rider, Westport Taxi is at least "arguably" within the zone of interests Congress sought to protect by paying special attention to private mass transportation companies.^{6/}

II. Demonstration Projects Under UMTA

The plaintiffs argue that the defendants failed to comply with UMTA in the following respects:

- a. in that the application fails to certify that the required hearings were held to determine the economic, social and environmental impact of the project (see 49 U.S.C. § 1602(d));
- b. in that the Secretary of Transportation did not, prior to approving the application, make a written finding that federal assistance under the Act is essential to the development of a coordinated and comprehensively planned transportation system (see 49 U.S.C. § 1602(e)(1));
- c. in that the Secretary did not make a written finding that the proposed program, to the maximum extent feasible, provides for the participation of private transportation companies (see 49 U.S.C. § 1602(e)(2));
- d. in that the Secretary did not make a written finding that just and adequate compensation will be paid to private transportation companies for the acquisition of their franchise interests, as required by applicable state law (see 49 U.S.C. § 1602(e)(3)); and

e. in that the Secretary also failed to comply with 49 U.S.C. § 1610, which requires specific findings as to environmental impact.

Defendants respond that compliance with these statutory provisions is not required by UMTA, since the challenged project is a demonstration project under 49 U.S.C. § 1605(a), which provides:

The Secretary is authorized to undertake research, development, and demonstration projects in all phases of urban mass transportation (including the development, testing, and demonstration of new facilities, equipment, techniques, and methods) which he determines will assist in the reduction of urban transportation needs, and improvement of mass transportation service, or the contribution of such service toward meeting total urban transportation needs at minimum cost. He may undertake such projects independently or by grant or contract (including working agreements with other Federal departments and agencies). In carrying out the provisions of this section, the Secretary is authorized to request and receive such information or data as he deems appropriate from public or private sources.

It is clear from the Act itself and from its legislative history that demonstration projects need not comply with the requirements of § 1602(d) or 1610. Section 1610 by its very terms applies only to assistance provided pursuant to § 1602 and not to a § 1605 demonstration project. Section 1602(d) applies only where the grant or loan is to finance "the acquisition, construction, reconstruction, or improvement of facilities or equipment which will substantially affect a community or its mass transportation service." Although the challenged project will to some extent involve acquisition of equipment, I find that it is a demonstration project only and

does not involve the more significant commitment of resources and more substantial effect on the community necessary to bring the hearing and certification requirements of § 1602(d) into play.^{7/} The Transit District and the Urban Mass Transportation Administration have at all times treated the application as one for a § 1605 demonstration grant rather than for a grant under § 1602. The exhibits introduced at the hearing, especially the Application of the Westport Transit District for a Service and Methods Demonstration Grant (Exhibit 1) and the Urban Mass Transportation Administration's approval of the demonstration grant application (Exhibit 2) clearly indicate the demonstration nature of the project, which is to have a two-year duration. Exhibit 2 specifically refers to the project as one authorized under § 6 (§ 1605) of the Act. The intent of the project is to experiment with model methods of providing a broad range of paratransit services. The cost estimates indicate that the bulk of the expenditures for the project will be non-capital rather than capital in nature. All these factors are persuasive that the project is one that may be implemented as a demonstration project under the flexible authorization of § 1605 rather than the more strictly controlled requirements of § 1602(d).^{8/}

The remaining section relied upon by the plaintiffs, § 1602(e), applies, inter alia, to assistance^{9/} provided "for the purpose of providing by contract or otherwise for the operation of mass transportation facilities or equipment in competition with, or supplementary to, the service provided by an existing mass transportation company." This provision

again raises the issue of whether Westport Taxi is a "mass transportation company" within the meaning of the Act, for if it is not, § 1602(e) would have no application. As noted supra at n.3 and accompanying text, Westport Taxi's status under the Act is not entirely clear. It is unnecessary to resolve the issue (other than for standing purposes as discussed above), since the legislative history and administrative construction of the Act indicate that § 1602(e) is inapplicable to § 1605 demonstration projects.

It is clear from the legislative history of UMTA that Congress wanted to allow considerable flexibility in demonstration projects under the Act. See H.R. Rep. No. 204, 88th Cong., 2d Sess. (1964), 1964 U.S. Code Cong. & Adm. News 2569, 2579-80, 2583. Rather than mandating extensive hearings and findings as under other sections of the Act, Congress simply authorized the Secretary "to request and receive such information or data as he deems appropriate from public or private sources."

The Urban Mass Transportation Administration, charged with administering the Act, has consistently differentiated between § 1602 projects and § 1605 demonstration projects. Demonstration projects are exempted by UMTA regulation from review under Office of Management and Budget Revised Circular A-95 on Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects. 41 Fed. Reg. 10,316 (1976) to be codified in 49 C.F.R. § 613.300 et seq. Section 613-306(a)(2)(iii) provides:

Experimental studies or operational tests of techniques or concepts that are as yet unproven and which require further study or demonstration to determine if they should be encouraged on a national scale, undertaken under a section 6 (§ 1605) Demonstration Grant, are exempt from the requirements of this section.

Similarly, UMTA regulations on comprehensive transportation planning in urban areas do not apply to § 1605 demonstration projects. See 23 C.F.R. § 450.302(a). In light of this administrative construction, it would be inappropriate to hold the requirements of § 1602(e) applicable to a § 1605 demonstration project, since the § 1602(e) requirements, like the OMB Circular A-95 requirements and comprehensive transportation planning requirements, are safeguards designed to provide more careful control over the more substantial projects under § 1602 rather than over the flexible and experimental projects funded under § 1605.

Plaintiffs' allegation that defendants hope to transform the project into a permanent one after the expiration of the two-year demonstration grant does not change the fact that these funds were allocated under § 1605 for demonstration purposes only. Every demonstration project is undertaken with the hope that its design will be replicated on a continuing basis in various locations. The fact that the locale of the demonstration may become one of the sites for a continuing project does not change the statutory requirements for demonstration grants.

III. Taking of Property

The plaintiffs argue that the implementation of the proposed municipal taxi service constitutes a taking of their

property without just compensation in violation of the Fifth and Fourteenth Amendments to the United States Constitution and §§ 1602(e) and 1603 of UMTA. Their argument is that since they hold a certificate of public convenience and necessity from the Connecticut Public Utilities Control Authority ("PUCA") and are regulated by the PUCA, the Westport Transit District, which is authorized by Conn. Gen. Stat. § 7-273d to assume the regulatory powers of the PUCA in the Westport area, cannot set up a municipal taxi service in competition with the plaintiffs in the absence of either a finding that competition is necessary or an award of just and adequate compensation. They allege that the Westport Transit District has advised them of its intent to assume the powers of the PUCA and to eliminate the plaintiffs' present franchise right to operate a shared-ride service by issuing a limited operating certificate. The Transit District denies any such intention. Even if the Transit District actually intends at some point to deprive the plaintiffs of their franchise or certificate, there is no showing that the threat is in any way imminent. The pressing issue, given the announced date of April 16, 1977, for commencement of the Transit District's taxi operation, is only whether the defendants violate any constitutional or statutory right of the plaintiffs by setting up a competing taxi service with federal financial assistance.

The Transit District's intention to enter into competition with the plaintiffs does not per se constitute a Fifth Amendment taking. The Supreme Court has repeatedly held that when a governmental entity enters into otherwise lawful

competition with a private utility, the resulting economic injury to the utility is damnum absque injuria. See, e.g., Tennessee Power Co. v. Tennessee Valley Authority, 306 U.S. 118 (1939); Alabama Power Co. v. Ickes, 302 U.S. 464 (1937). In the latter case the Court stated:

What petitioner anticipates, we emphasize, is damage to something it does not possess -- namely, a right to be immune from lawful municipal competition. No other claim of right is involved. It is, in principle, as though an unauthorized loan were about to be made to enable the borrower to purchase a piece of property in respect of which he had a right, equally with a prospective complainant, to become the buyer. While the loan might frustrate complainant's hopes of a profitable investment, it would not violate any legal right; and he would have no standing to ask the aid of a court to stop the loan. What difference, in real substance, is there between the case supposed and the one in hand?

302 U.S. at 480. In such a case there is no compensable taking. See United Railroads of San Francisco v. City and County of San Francisco, 249 U.S. 517 (1919). The plaintiffs' freedom to exercise their own franchise has been in no way impaired, even though the profitability of their operation may decline. They have no constitutional right to compensation unless they have a legally protected, compensable interest in operating their franchise free of new competition.

If there is a federal statutory right to protection from government competition, cf. Hardin v. Kentucky Utilities Co., supra, it derives from the Congressional intent expressed in 49 U.S.C. §§ 1602(e) and 1603 to provide for and encourage

"to the maximum extent feasible" the participation of private enterprise and to compensate private mass transportation companies "for acquisition of their franchises or property to the extent required by applicable State or local laws." The evidence presented by the parties shows that the statutory policy of providing for private participation has been fully recognized and taken into account.^{10/} The Transit District not only held public hearings on the project, of which the plaintiffs were aware, but also made every effort to invite and encourage the plaintiffs to bid on participation in the project and negotiated with them at length on possible roles for them to play under the demonstration grant. Ultimately the plaintiffs declined to bid on the project. The fact that the negotiations were unsuccessful does not mean that there has been a statutory violation. All the statute requires is encouragement of private participation "to the maximum extent feasible." It does not allow private transit operators to write their own ticket. Further, since no franchise or property interest has been acquired to trigger a duty to compensate, § 1602(e)(3) has not been violated.

It may be, however, that plaintiffs have a claim to compensation for a taking grounded in state law. They contend that their franchise from the PUCA assures them immunity from further competition unless there has been a determination by the PUCA that additional service is required by public convenience and necessity. See Conn. Gen. Stat. § 16-320. Thus,

they contend, the Transit District's proposed competitive service is not "lawful" competition within the meaning of Alabama Power.

Whatever merit there may be to this claim, it is not a basis for any injunctive relief against the defendants in this suit. If any compensable taking will occur, the remedy is compensation, not an injunction to bar the competitive service. See Joslin Mfg. Co. v. City of Providence, 262 U.S. 668 (1923). There is no indication that reverse condemnation remedies are unavailable to the plaintiffs. Moreover, determination of whether plaintiffs' have a right to be free of competition of the sort the Transit District proposes, in the absence of a PUCA finding of need, raises a question of state law inappropriate for decision by this Court. Cf. Alabama Public Service Comm'n v. Southern Ry., 341 U.S. 341 (1951). It is for the PUCA and the state courts to determine whether as a matter of state law plaintiffs' present franchise accords them the degree of immunity they assert and whether, even if it does, that immunity protects against a competitive service operated pursuant to a federally funded demonstration grant.

It is true that the taking of a public franchise is a taking of property, for which compensation must be made. United States v. Brooklyn Union Gas Co., 168 F.2d 391 (2d Cir. 1948). Here the franchise has not been acquired by the Transit District under the procedure established by Conn. Gen. Stat. § 7-273e. The plaintiffs are free to continue their operations exactly as before. At most the value of the franchise will be

impaired. Under the circumstances, the Connecticut courts should have the opportunity to adjudicate this claim in a state court action seeking just compensation for the diminution in value of the franchise. In any event, there is no basis for a federal court to enjoin the commencement of the competing service, since compensation rather than an injunction is the only remedy for a taking by eminent domain.

IV. Conclusion

For the foregoing reasons the plaintiffs' motions for injunctive relief are denied. The other relief prayed for in the complaint, including a declaratory judgment of the invalidity of the approval of the grant application as well as costs and attorneys' fees, is likewise denied. Judgment may enter in favor of all defendants.

Dated at New Haven, Connecticut, this 13 day of April, 1977.

Jon O. Newman

Jon O. Newman
United States District Judge

APPENDIX E. REPORT OF INVENTIONS

This report highlights events which led up to the beginning of demonstration revenue service for the Westport, Connecticut, Integrated Transit System, a system concept which has significant national implications. A diligent review of work performed under this contract has revealed that state-of-the-art methodologies have been employed in the preparation of this report.

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